

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement		GRANT NUMBER (FAIN): 96022410		DATE OF AWARD 09/09/2014		
			MODIFICATION NUMBER: 0				
			PROGRAM CODE: RP		TYPE OF ACTION Continuation		MAILING DATE 09/16/2014
			PAYMENT METHOD:		ACH# X0330		
RECIPIENT TYPE: Indian Tribe			Send Payment Request to: Las Vegas Finance Center FAX # 702-798-2423				
RECIPIENT: Shoshone-Bannock Tribes of the Fort Hall Reserv P.O. Box 306 Fort Hall, ID 83203-0306 EIN: 82-0197554			PAYEE: Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho P.O. Box 306 Fort Hall, ID 83203-0306				
PROJECT MANAGER Kelly Wright P.O. Box 306 Fort Hall, ID 83203-0306 E-Mail: kwright@sbtribes.com Phone: 208-236-1049		EPA PROJECT OFFICER Mike Slater 805 SW Broadway, Suite 500, OOO Portland, OR 97205 E-Mail: Slater.Mike@epamail.epa.gov Phone: 503-326-5872		EPA GRANT SPECIALIST Joanne Brendle 1200 Sixth Avenue, Suite 900, OMP-173 Seattle, WA 98101 E-Mail: Brendle.Joanne@epa.gov Phone: 206-553-6385			
PROJECT TITLE AND DESCRIPTION Shoshone-Bannock RP 2014-15 This project provides funding for the Shoshone-Bannock Tribes Environmental Waste Management Program includes timely survey and inventory of brownfield sites; oversight and enforcement authorities to ensure that response actions protect human health and the environment; resources to provide meaningful public involvement; mechanisms for approval of a cleanup plans and verification of complete responses, including RCRA post-closure and corrective action oversight. Additionally their work includes brownfields assessment and cleanup activities.							
BUDGET PERIOD 10/01/2014 - 09/30/2015		PROJECT PERIOD 10/01/2014 - 09/30/2015		TOTAL BUDGET PERIOD COST \$383,560.00			
				TOTAL PROJECT PERIOD COST \$383,560.00			
NOTICE OF AWARD							
Based on your Application dated 06/19/2014 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$383,560. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$383,560. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.							
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE				
ORGANIZATION / ADDRESS EPA Region 10 Mail Code: OMP-173 1200 Sixth Avenue, Suite 900 Seattle, WA 98101			ORGANIZATION / ADDRESS U.S. EPA, Region 10 Office of Environmental Cleanup 805 SW Broadway, Suite 500 Portland, OR 97205				
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY							
Digital signature applied by EPA Award Official Russell Harmon - Acting Manager - Grants and Interagency Agreements Unit					DATE 09/09/2014		

RP - 96022410 - 0 Page 2

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 383,560	\$ 383,560
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 383,560	\$ 383,560

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.817 - State and Tribal Response Program Grants	CERCLA: Sec. 128(a)	40 CFR PTS 31 & 35 SUBPT B

[illegible]

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$96,926
2. Fringe Benefits	\$26,189
3. Travel	\$20,887
4. Equipment	\$0
5. Supplies	\$16,121
6. Contractual	\$172,508
7. Construction	\$0
8. Other	\$21,992
9. Total Direct Charges	\$354,623
10. Indirect Costs: % Base	\$28,937
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	\$383,560
12. Total Approved Assistance Amount	\$383,560
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$383,560
15. Total EPA Amount Awarded To Date	\$383,560

Administrative Conditions

1. Payment Methods

a. The Debt Collection Improvement Act of 1996 requires that Federal payments be made by electronic funds transfer. In order to comply with the Act, a recipient must receive payments via one of two electronic methods available to them:

Automated Standard Application for Payments (ASAP)

The ASAP system is the preferred method of payment for EPA grantees. ASAP enrollment is highly encouraged for organizations that have multiple grants/cooperative agreements and for those with a frequent need to request funds. If your organization uses multiple bank accounts for EPA grants/cooperative agreements, you must enroll in ASAP. If you are interested in receiving funds electronically via ASAP, please complete the ASAP Initiate Enrollment form located at <http://www.epa.gov/ocfo/finservices/forms.htm> and email it to LVFC-grants@epa.gov or fax it to LVFC at 702-798-2423

Under this payment mechanism, the Recipient initiates, via ASAP, an electronic payment request which is approved or rejected based on the amount of available funds authorized by EPA in the Recipient's account. Approved funds are credited to the recipient organization at the financial institution identified on the recipient's ASAP enrollment application. Additional information concerning ASAP and enrollment can be obtained by contacting the EPA Las Vegas Finance Center, at (702) 798-2485, or by visiting www.fms.treas.gov/asap.

Electronic Funds Transfer (EFT)

Under this payment mechanism, the EPA Las Vegas Finance Center will obtain your organization's banking information from your System for Award Management (SAM) registration. Upon completion of required Regional training, a Las Vegas Finance Center Representative will send you an email message with your EFT Control Number and payment information. Additional information concerning EFT can be obtained by contacting the EPA Las Vegas Finance Center at (702) 798-2485, or by visiting <http://www.epa.gov/ocfo/finservices/payinfo.htm>

NOTE: If your banking information is not correct or changes at any time prior to the end of your agreement, please update your SAM registration and notify the EPA Las Vegas Finance Center as soon as possible so the new banking information can be retrieved. This is vital to ensure proper and timely deposit of funds.

b. In accepting this assistance agreement, the recipient agrees to draw cash only as needed for its disbursement. Failure on the part of the recipient to comply with this condition may cause the undisbursed portions of the assistance agreement to be revoked and financing method changed to a reimbursable basis.

2. Indirect Costs - Less Than Approved Rate

In accordance with the application, the recipient has agreed to accept less than its authorized indirect cost rate would allow. The budgeted indirect costs are shown under Part II - Approved Budget, Table A, line 10., of this agreement.

3. Cost Principles/Indirect Costs for Indian Tribal Governments

The cost principles of 2 CFR Part 225 are applicable, as appropriate, to this award.

If the recipient does not have a previously established indirect cost rate, the recipient must submit their indirect cost rate proposals to:

National Business Center
Indirect Cost Services
U.S. Department of the Interior
2180 Harvard Street, Suite 430

For proposal preparation, the recipient may use the Native American Government checklists located at: <http://www.aqd.nbc.gov/indirect/indirect.asp>.

Recipients are entitled to reimbursement of indirect costs, subject to any statutory or regulatory administrative cost limitations, if they have a current rate agreement or have submitted an indirect cost rate proposal to their cognizant federal agency for review and approval. Recipients are responsible for maintaining an approved indirect cost rate throughout the life of the award.

Recipients with differences between provisional and final rates are not entitled to more than the award amount, without EPA approval.

Pursuant to 40 CFR 31.26, a recipient agrees to comply with the audit requirements prescribed in the Single Audit Act Amendments, and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," including Subpart C Section 305(b) which addresses the restriction on auditors preparing indirect cost proposals.

4. Federal Financial Report (FFR)

Recipients shall submit final Federal Financial Reports (FFR), Standard Form 425 (SF-425), to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www.epa.gov/ocfo/financeservices/forms.htm>. All FFRs must be submitted to the Las Vegas Finance Center: **US EPA, LVFC, 4220 S. Maryland Pkwy Bldg C, Rm 503, Las Vegas, NV 89119, or by FAX to: 702-798-2423.**

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 30.62 and 40 CFR 31.43 if the recipient does not comply with this term and condition.

5. Audit Requirements

In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor, if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit the SF-SAC and a Single Audit Report Package. **The recipient MUST** submit the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. Complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

6. Hotel-Motel Fire Safety Act

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

7. Recycled Paper

INSTITUTIONS OF HIGHER EDUCATION HOSPITALS AND NON-PROFIT ORGANIZATIONS:

In accordance with 40 CFR 30.16, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

STATE AGENCIES AND POLITICAL SUBDIVISIONS:

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

STATE AND LOCAL INSTITUTIONS OF HIGHER EDUCATION AND NON-PROFIT ORGANIZATIONS:

In accordance with 40 CFR 30.16, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines.

STATE TRIBAL AND LOCAL GOVERNMENT RECIPIENTS:

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

8. Lobbying

ALL RECIPIENTS:

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

PART 30 RECIPIENTS:

All contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix at Title 40 CFR Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

9. Lobbying and Litigation

ALL RECIPIENTS:

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of Federal grant funds for litigation against the United States or for lobbying or other political activities.

10. Suspension and Debarment

Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epls.gov. This term and condition

supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

11. Drug-Free Workplace Certification for all EPA Recipients

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at <http://ecfr.gpoaccess.gov>.

12. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

13. Reimbursement Limitation

If the recipient expends more than the amount of federal funding in its EPA approved budget in anticipation of receiving additional funds from EPA, it does so at its own risk. EPA is not legally obligated to reimburse the recipient for costs incurred in excess of the EPA approved budget.

14. Trafficking in Persons

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our Agency at 2 CFR 1532.

b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the

conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR 1532

c. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

15. Trafficking Victim Protection Act of 2000 (TVPA) as Amended.

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

a. We, as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.

b. Our right to terminate unilaterally that is described in paragraph a of this award term: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.

c. You must include the requirements of the Prohibition Statement below in any subaward you make to a private entity.

Prohibition Statement - You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.

16. DUNS and CCR Requirements (Updated 8/1/12)

A. Requirement for Central Contractor Registration (CCR)/System for Award Management (SAM).

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) numbers. If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR)/System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the System for Award Management (SAM) Internet site <http://www.sam.gov>.
2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a State, local government, or Indian tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. Subaward:
 - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. Subrecipient means an entity that:
 - a. Receives a subaward from you under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.

17. Subaward Reporting and Executive Compensation

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e of this award term).
2. Where and when to report.
 - i. You must report each obligating action described in paragraph a.1. of this award term to www.fsrs.gov.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. What to report. You must report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration Central Contractor Registration/System for Award Management profile available at www.sam.gov.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if –
 - i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
 - i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions.

- If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
- i. subawards, and
 - ii. the total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;

- iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. Executive means officers, managing partners, or any other employees in management positions.
3. Subaward:
- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. Subrecipient means an entity that:
- i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
- i. *Salary and bonus*.
 - ii. *Awards of stock, stock options, and stock appreciation rights* . Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. *Earnings for services under non-equity incentive plans* . This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.
 - v. *Above-market earnings on deferred compensation which is not tax-qualified* .
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

18. CIVIL RIGHTS OBLIGATIONS

GENERAL

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Standard Form 424B or Standard Form 424D, as applicable. These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.

STATUTORY REQUIREMENTS

In carrying out this agreement, the recipient must comply with:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
- The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.

If the recipient is conducting an education program under this agreement, it must also comply with:

- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance.

If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:

- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

REGULATORY REQUIREMENTS

The recipient agrees to comply with all applicable EPA civil rights regulations, including:

- For Title IX obligations, 40 C.F.R. Part 5; and
- For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 C.F.R. Part 7.
- As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination.

TITLE VI – LEP, Public Participation and Affirmative Compliance Obligation

- As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "*Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.*" The guidance can be found at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2004_register&docid=fr25jn04-79.pdf
- If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at <http://edocket.access.gpo.gov/2006/pdf/06-2691.pdf>.
- In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

19. Disadvantaged Business Enterprise Requirements for Tribal Organizations

General Compliance, 40 CFR, Part 33

This assistance agreement is exempt from Fair Share goals negotiations and there are no reporting requirements. However, recipients are required to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement and to ensure that sub-recipients, loan recipients, and prime contractors are also in compliance with **40 CFR, Part 33, Subpart C**. As described in Subpart C, the good faith efforts should be followed only if they do not conflict with existing Tribal and Federal law.

In accordance with **40 CFR, 33.304(b)**, Tribal organizations awarded an EPA financial assistance agreement have the ability to solicit and recruit Indian organizations and Indian-owned economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts. By accepting this agreement, the grantee agrees to follow the guidelines of the Buy Indian Act: <http://www.gpo.gov/fdsys/pkg/FR-2013-06-07/pdf/2013-13255.pdf>.

MBE/WBE Reporting

Reporting requirements for this grant are waived by EPA Region 10.

20. Payment to Consultants

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j), as applicable, for additional information.

As of January 1, 2014, the limit is \$602.24 per day \$75.28 per hour.

NOTE: For future years' limits, the recipient may find the annual salary for Level IV of the Executive Schedule on the following Internet site: <http://www.opm.gov/oca>. Select "Salary and Wages", and select "Rates of Pay for the Executive Schedule". The annual salary is divided by 2087 hours to determine the maximum hourly rate, which is then multiplied by 8 to determine the maximum daily rate.

21. Tribal Council Costs

With regard to payments to members of the Tribal Council, 2 CFR 225, Appendix B, paragraph 19, provides that general costs of government are unallowable, and subparagraph 19(a)(2) specifically includes in this prohibition salaries and expenses of tribal councils whether incurred for purposes of legislation or executive direction. At the same time, however, the guidance includes other provisions which may or may not allow payment of grant funds to Council members:

(a) Paragraph 2 provides that costs incurred by advisory councils are allowable where authorized in advance by the awarding agency.

(b) Paragraph 32 provides that costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the governmental unit, are allowable.

(c) Paragraph 27 provides that meetings and conferences, where the primary purpose is the dissemination of technical information, are allowable.

(d) Paragraph 19b. provides that for federally-recognized Indian tribal governments, the portion of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his staff is allowable.

Any costs pertaining to the Tribal Council must be in accordance with 2 CFR 225. The recipient should refer to the entire paragraphs cited above and A-87 in its entirety because the above are excerpts only, and other provisions could affect the allowability of costs. Documentation must be kept in your records as to how any of those costs charged to this grant fit with the above mentioned paragraphs and how the costs relate to the work plan components.

Programmatic Conditions

CERCLA Section 128(a) State and Tribal Response Program FY14 Terms and Conditions

- I. **Response Program Elements:** The recipient must demonstrate that their response program includes, or is taking reasonable steps to include, the four elements of a response program identified in CERCLA Section 128(a)(2).
- II. **Public Record System:**

- A. The recipient must establish a public record system pursuant to CERCLA Section 128(b)(1)(C). The public record must be maintained and updated, at least annually and include the requirements listed below.
1. For sites where response actions were completed in the previous year, include the following:
 - a) Date the response action was completed;
 - b) Site name, the name of owner at time of cleanup and the type of site (e.g., petroleum, methamphetamine laboratory, mine scarred lands);
 - c) Location of the site (street address, latitude and longitude);
 - d) Describe whether or not the site, upon completion of the response action, will be suitable for unrestricted use. If not, the public record must identify and describe the institutional control is in place or relied on for the remedy (e.g., deed restriction);
 - e) Nature of the contamination at the site (e.g., hazardous substances, contaminants, pollutants, petroleum contamination, etc.); and
 - f) Size of the site in acres.
 2. A list of sites planned to be addressed in the next year by the state or tribal response program including:
 - a) Site name, the name of owner at time of cleanup, and the type of site (e.g., petroleum, methamphetamine laboratory, mine scarred lands);
 - b) Location of the site (street address, latitude and longitude);
 - c) To the extent known, whether an institutional control is in place. Describe the type of institutional control in place (e.g., deed restriction);
 - d) To the extent known, the nature of the contamination at the site (e.g., hazardous substances, contaminants, pollutants, petroleum contamination, etc.); and
 - e) Size of the site in acres.
 3. Once a public record is established in a manner pursuant to CERCLA Section 128(b)(1)(C), recipients must maintain the public record throughout the duration of this agreement.

III. Site-Specific Assessment and Cleanup Activities:

- A. Consistent with CERCLA Section 128(a)(2)(C)(iii) and to the extent authorized by the scope of work for this agreement, the recipient may conduct assessments or cleanups at brownfield sites ("brownfield") as defined by CERCLA Section 101(39) in response to a request by a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, contaminant or petroleum at a brownfield located in the community in which the person works or resides. Assessments and cleanups must comply with all applicable laws and are subject to the following restrictions:
1. Absent EPA approval, no more than \$200,000 per site can be funded for assessments, and no more than \$200,000 per brownfield site can be funded for cleanups.
 2. Absent EPA approval, the recipient may not use funds awarded under this agreement to assess and/or cleanup brownfields owned by the recipient or held in trust by the United States Government for the recipient.

3. Subgrants may not be provided to entities that may be potentially responsible parties (pursuant to CERCLA Section 107) at the site for which the assessment or cleanup activities are proposed to be conducted, with the exception of sites contaminated by a controlled substance as defined in CERCLA Section 101(39)(D)(ii)(I); or when the recipient would satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was on or before January 11, 2002.

B. Consistent with CERCLA Section 128(a)(2)(B)(ii) and to the extent authorized by the scope of work for this agreement, the recipient may use funds awarded under this agreement to complete the necessary response activities, including assessments and cleanups, if the person conducting a response action overseen by the recipient fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities. Assessments and cleanups under this provision must comply with all applicable laws and are subject to the following restrictions:

1. Absent EPA approval, the recipient may not use funds awarded under this agreement to assess and cleanup sites owned by the recipient.
2. Assessments and cleanups may not be conducted at sites where the recipient itself is a potentially responsible party (pursuant to CERCLA Section 107), with the exception of sites contaminated by a controlled substance as defined in CERCLA Section 101(39)(D)(ii)(I).
3. Subgrants may not be provided to entities that may be potentially responsible parties (pursuant to CERCLA Section 107) at the site for which the assessment or cleanup activities are proposed to be conducted.

C. For the site-specific activities under paragraph III.A. and III.B., the recipient must maintain documentation supporting the recipient's conclusion that the site meets the brownfield definition in CERCLA Section 101 (39). For those sites which are excluded from the brownfield definition, pursuant to CERCLA Section 101(39)(B), but are eligible for a property-specific funding determination pursuant to CERCLA Section 101(39)(C), the recipient must comply with paragraph IV below. NOTE: To the extent authorized in the scope of work for this agreement, the recipient may conduct oversight of cleanups at sites other than brownfields. Records must be maintained per 40 CFR Section 31.42.

D. For site-specific activities at petroleum-only brownfields sites (CERCLA Section 101(39)(D)(ii)(II)), the requirements listed below apply.

1. The Tribes must ask the EPA to determine and maintain supporting documentation that:
 - a) The site is of relatively low risk, as compared to other petroleum-only sites in the state;
 - b) There is no viable responsible party for the site; and
 - c) The site will not be assessed, investigated or cleaned up by a person that is potentially liable for cleaning up the site.
2. The site must not be subject to any order issued under Section 9003(h) of the Solid Waste Disposal Act.
3. The documentation must identify the EPA official for tribal sites who made the determinations, the date the recipient obtained the determination and a summary of each conclusion.

E. **Site-specific Activity Funding Limit:** The amount requested for site-specific assessments and cleanups may not exceed 50% of the total amount of funding. A grantee can request a

waiver to exceed 50% of the annual funding for site specific activities as described in

Section III A-D. The waiver request must include a brief justification describing the reason(s) for spending more than 50% of an annual allocation on site-specific activities and submit it to the EPA project officer. EPA will determine if a waiver is granted and notify the recipient. A recipient must include the following information in the written justification:

1. Percentage of the eligible brownfield site-specific activities (assuming waiver is approved) in the total budget;
2. List all site specific activities that will be covered by this funding. If known, provide site specific information and a description of how work on each site contributes to the establishment or enhancement of your state/tribal response program. EPA recognizes the role of response programs to develop and provide capacity in distressed, environmental justice, rural or tribal communities, and encourages prioritizing sites for site-specific activities in those communities. Further explain how the community will be (or has been) involved in prioritization of site work and especially those sites where there is a potential or known significant environmental impact to the community;
3. Please explain how this shift in funding will not negatively impact the core programmatic capacity (i.e., the ability to establish/enhance four elements of a response program) and how it will be maintained in spite of an increase in site-specific work. Grantees must demonstrate that they have adequate funding from other sources to effectively carry out work on the four elements for EPA to grant a waiver of the 50% limit on using 128(a) funds for site-specific activities;
4. Describe how this shift in funding towards site-specific work is appropriate for your response program;
5. Please explain whether the sites to be addressed are those for which the affected community(ies) has requested work be conducted.

IV. Property Specific Funding Determinations:

- A. If a recipient plans to use funds for site-specific activities at a site that is excluded from the definition of a brownfield in CERCLA Section 101(39)(A) and (B), but is eligible for a property-specific funding determination, then the recipient must provide information sufficient for EPA to make a property-specific funding determination. Sites eligible for property-specific funding are defined in CERCLA Section 101(39)(C). The recipient must comply with the following requirements:
 1. The recipient must not incur any site-specific costs for those sites which require a property-specific funding determination under this agreement (other than those necessary to provide information to EPA) until EPA makes a property specific funding determination.
 2. The recipient must submit to EPA a written request for a property-specific funding determination. The request must include information about the site (e.g., name, location, owners) and explain how the financial assistance will:
 - a) Protect human health and the environment and
 - b) Either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property or other property used for nonprofit purposes.
- B. Any property-specific funding determination granted by EPA does not obviate the recipient's responsibility to incur only costs that meet the terms and conditions of the agreement and are allowable under OMB Circular A-87 for governmental entities.

V. Institutional Controls: To the extent authorized by the scope of work for this agreement, the recipient may use funding under this agreement to maintain and monitor institutional controls.

VI. Grant Performance Reporting Requirements:

A. Performance Reporting Requirements for Program Activity Levels are due annually on January 31st to the EPA Regional State and Tribal Coordinator and EPA Project Manager. The Program Activity Levels summarize the work from the previous federal fiscal year including:

1. Environmental programs where CERCLA 128(a) funds are used to support capacity building [general program support, non-site-specific work]. Indicate as appropriate from the following: Brownfields, Underground Storage Tanks/Leaking Underground Storage Tanks, Federal Facilities, Solid Waste Superfund, Hazardous Waste Facilities, VCP (Voluntary Cleanup Program, Independent Cleanup Program, etc.), and Other;
2. Number of properties (or sites) enrolled in a response program during previous fiscal year;
3. Number of properties (or sites) where documentation indicates that cleanup work is complete AND either (a) all required institutional controls (IC's) are in place, or (b) the cleanup does not require ICs;
4. Total number of acres associated with properties (or sites) in the previous question (Question #3); and
5. OPTIONAL: Number of properties (or sites) where assistance was provided, but the property was not enrolled in a response program.

B. Quarterly Performance Reporting Requirements: Recipient agrees to provide quarterly performance reports. The reports will be due no later than 30 days after the end of each quarterly period. An accomplishment/success story will be submitted with the 2nd quarterly report, i.e., March 31, 2015.

1. All interim and final progress reports must prominently display the following three relevant Essential Elements as reflected in the current EPA strategic plan:
 - a) Strategic Plan Goal 3: Cleaning Up Communities and Advancing Sustainable Development
 - b) Strategic Plan Objective 3.1: Promote Sustainable and Livable Communities
 - c) Work plan Commitments and Timeframes: See work plan for specifics
2. The recipient will report on milestones, activities and outputs achieved under this agreement. Examples of items to include:
 - a) The completion of significant site assessment, cleanup or redevelopment activities;
 - b) Information regarding significant outreach, meeting or training events;
 - c) Significant updates to a website or tracking system or improvements to the process;
 - d) For site-specific work, details such as where and when the activity was conducted and why, who was involved or impacted, and what was accomplished. The narrative may range in length between a paragraph and one page in length for a specific site. Provide before and after photos of site work and photos of events, unless the site assessment report already has been provided to EPA as a deliverable.

- e) A budget summary table which may include the following information: current approved project budget; costs incurred during the reporting quarter; costs incurred to date (cumulative expenditures); and total remaining funds.
- 3. All recipients must report information relating to establishing and maintaining the public record described in paragraph II above and provide the date of the last update. (NOTE: For this requirement, states/tribes can refer to their already existing public record, such as a website or other public database).
- 4. Recipients with work plans that include funding for environmental insurance must report:
 - a) Number and description of insurance policies purchased (e.g., type of coverage provided, dollar limits of coverage, category and identity of insured persons, premium, first dollar or umbrella, site specific or blanket, occurrence or claims made, etc.);
 - b) The number of sites covered by the insurance; and
 - c) The amount of funds spent on environmental insurance (e.g., amount dedicated to insurance program or to insurance premiums) and the amount of claims paid by insurers to policyholders.
- 5. Recipients with work plans that include funding for other site related activities must include a description of the activities and provide the number of sites at which the activities were conducted. For example:
 - a) Number and frequency of oversight reviews (internal audits) of licensed site professional certified cleanups.
 - b) Number and frequency of state/tribal oversight reviews (internal audits) conducted.
 - c) Number of sites where staff conducted reviews (internal audits), provided technical assistance, or conducted other oversight activities.
 - d) Number of staff conducting oversight reviews (internal audits), providing technical assistance, or conducting other oversight activities.
- 6. Recipients with work plans that include funding for a Revolving Loan Fund (RLF) must include the information required by the terms and conditions for progress reporting under CERCLA section 104(k)(3) RLF grants.
- 7. Recipients must report activities related to establishing or enhancing the four elements of the state or tribe's response program:
 - a) For each element, states/tribes must report how they are maintaining the element or how they are taking reasonable steps to establish or enhance the element as negotiated in individual state/tribal work plans. For example, pursuant to CERCLA Section 128(a)(2)(B), reports on the oversight and enforcement authorities/mechanisms element may include:
 - (1) A narrative description and copies of applicable documents developed or under development to enable the response program to conduct enforcement and oversight at sites. For example:
 - (a) Legal authorities and mechanisms (e.g., statutes, regulations, orders, agreements);
 - (b) Cleanup standards for soil and water; and

- (c) Policies and procedures to implement legal authorities; and
 - (d) Other mechanisms;
 - (2) A description of the resources and staff allocated/to be allocated to the response program to conduct oversight and enforcement at sites as a result of the grant;
 - (3) A narrative description of how these authorities or other mechanisms and resources are adequate to ensure that:
 - (a) A response action will protect human health and the environment and be conducted in accordance with applicable laws; and
 - (b) If the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed;
 - (4) A narrative description and copy of appropriate documents demonstrating the exercise of oversight and enforcement authorities by the response program at a site.
- b) EPA strongly encourages states/tribes to report specific performance measures related to the four elements in progress reports. These data may be aggregated for national reporting to Congress.
- (1) Timely Survey & Inventory - Estimated number of brownfield sites in the state or tribal land.
 - (2) Oversight & Enforcement Authorities/Mechanisms - Number of active cleanups and percentage that received oversight; percentage of active cleanups not in compliance with cleanup work plan and that received communications from recipient regarding non-compliance.
 - (3) Public Participation - Percentage of sites in the state or tribal response program where public meetings/notices were conducted regarding the cleanup plan and/or other site activities; number of requests and responses to site assessment requests.
 - (4) Cleanup Approval/Certification Mechanisms - Total number of "no further action" letters or total number of certificate of completions.

[NOTE: This reporting requirement may include activities not funded with CERCLA Section 128(a) funding, because this information may be used by EPA to evaluate whether recipients have met or are taking reasonable steps to meet the four elements of a response program pursuant to CERCLA Section 128(a)(2).]

- C. **Significant Developments:** As required by 40 CFR 31.40(d), the recipient must inform EPA and report on significant impacts to grant supported activities when they occur between the scheduled reporting dates. Significant developments to report may include problems or delays (such as staff vacancies or travel restrictions) as well as favorable developments or successes associated with milestones and activities as listed under section VI.B above.
- D. **Reporting Requirements Related to Site Assessment and Cleanup Work:** The recipients must report on interim progress (e.g., assessment started) and any final accomplishments (e.g., assessment completed, cleanup required, contaminants, Institutional Controls, Engineering Controls) by submitting information into the Brownfields online reporting system, known as the Assessment, Cleanup and Redevelopment Exchange System (ACRES). The

recipient must enter this data into ACRES within 30 days of the end of the next reporting period or sooner at EPA's request. EPA will provide the recipients with training, which is required to obtain access to ACRES.

- E. **Final Report:** The recipient must submit a final report at the end of the period of performance in order to finalize the closeout of the grant. This final report must capture the work that was performed during the project period, explain how the funding was utilized, and may include a summary of activities as is listed under VI.B. above. The final report is due within 90 days of the end of the project period and may be submitted in lieu of a final quarterly report.
- VII. **Sufficient Progress:** The Recipient agrees that EPA may terminate this assistance agreement for failure to make sufficient progress so as to reasonably ensure completion of the project activities within the project period. Alternatively, the recipient may be required to implement a corrective action plan approved by the EPA Project Officer or the EPA Program contact. The EPA Project Officer or the EPA Program contact will measure sufficient progress by examining the performance required under the work plan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project. Milestones and activities must be described in the work plan with enough specificity to facilitate evaluation of reasonable progress. This condition as well as other relevant and applicable terms and conditions are also applicable to agreements in Performance Partnership Grants (PPGs).
- VIII. **Quality Assurance:** The recipient must comply with 40 CFR Section 31.45 to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. No site work involving direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology shall be initiated under this project until the EPA Project Officer, in concert with the EPA Quality Assurance Manager, has approved the quality assurance document. Additional information on these requirements can be found at www.epa.gov/ogd/grants/assurance.htm.

Competency of Organizations Generating and/or Using Environmental Measurement Data:

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA Project Officer for this award.

Federal Assistance Agreement Funds Up to \$200,000: Recipient agrees that if the total Federal funding obligated on this award exceeds \$200,000 (resulting from subsequent amendments to this agreement) and will involve the use or generation of environmental data it will (unless it has otherwise to do so) demonstrate competency prior to carrying out any activities involving the generation or use of environmental data under this agreement.

Federal Assistance Agreement Funds Exceed or Expect to Exceed \$200,000: Recipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable. Recipient agrees to submit documentation and demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data.

R10 Quality Assurance Team Contact: Gina Grepo-Grove, Quality Assurance Manager at (206) 553-1632 or email: Grepo-Grove.Gina@epa.gov.

- IX. **General Federal Requirements:** The recipient must comply with federal cross-cutting requirements. These requirements include, but are not limited to minority business enterprise (MBE)/women's business enterprise (WBE) requirements found at 40 CFR Part 33; nondiscrimination statutes, including Title VI of the Civil Rights Act of 1964, and EPA's implementing regulations found at 40 C.F.R. Parts 5 and 7: OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety

Standards Act, as amended (40 USC 327-333) the Anti-Kickback Act (40 USC 276c); and Section 504 of the Rehabilitation Act of 1973, as implemented by Executive Orders 11914 and 11250.

X. Substantial Involvement:

- A. This is a cooperative agreement that will entail substantial involvement by EPA to the extent Agency resources permit. Substantial EPA involvement includes:
1. Consultation and collaboration on technical and policy matters at the recipient's request. EPA will provide data, advice and information that will help the recipient carry out the agreement effectively;
 2. EPA may review the substantive terms of professional services contracts or subgrants the recipient enters into to carry out specific elements of the scope of work. EPA approval is not required for contracts for supplies, equipment, information technology and other administrative support services;
 3. EPA may review the qualifications of key staff hired by the recipient or consultants with whom the recipient contracts to carry out specific elements of the scope of work when those staff or contractors are paid by the grant funds;
 4. Monitoring by EPA of the recipient's performance under the agreement; and
 5. (For tribal grantees) EPA approval, prior to commencing work on a site, of each site chosen for assessment or cleanup when the proposed site is owned by or held in trust for the tribe. For proposed sites not owned by or held in trust for the tribe, the tribe must submit its documentation of decision for site eligibility to EPA prior to commencing work on the site.

(NOTE: EPA may waive or modify its substantial involvement on any particular matter or classes of matters through written advice to the recipient.)

XI. Program Income: In accordance with 40 CFR 31.25(g)(2), the recipient is authorized to add program income generated under this agreement to the funds committed by EPA. The recipient can use this program income to carry out activities described in the scope of work for this agreement and under the same terms and conditions of the agreement. Program income is defined generally at 40 CFR 31.25(b). For the purposes of this agreement, program income includes fees charged participants in the recipient's voluntary cleanup program or other fees for services (only to the extent that these fees recover costs charged to this agreement). Costs the recipient recovers for cleanups and site assessments are program income to the same extent that the recovered costs represent costs charged to this agreement.

- A. The recipient will maintain records adequate to document the extent to which transactions generate program income and the disposition of program income.
- B. As required by 40 CFR 31.21(f), the recipient will disburse program income before requesting additional payments under this agreement.

XII. Food and Refreshments: Unless the event(s) and all of its components (i.e., receptions, banquets and other activities that take place after normal business hours) are described in the approved work plan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- A. An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- B. A description of the purpose, agenda, location, length and timing for the event.
- C. An estimated number of participants in the event and a description of their roles.

Recipients may address questions about whether costs for light refreshments, and meals for events are allowable to the recipient's EPA Project Officer. However, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.11)

- END OF DOCUMENT -